

# KANSAS REGISTER

State of Kansas

**JACK H. BRIER**  
Secretary of State

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September 22, 1983

Pages 1171-1188

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## State of Kansas

# LEGISLATURE

## INTERIM AGENDA

Notice is hereby given to all interested parties that the following legislative committee meetings have been scheduled during the period of September 26 through October 7, 1983.

DATE	ROOM	TIME	COMMITTEE	AGENDA
Sept. 26	123-S	10:00 A.M.	Joint Committee on State	Review of FY 1985 Capital
Sept. 27	123-S	9:00 A.M.	Building Construction	Improvement Requests— various state agencies.
Sept. 27	313-S	10:00 A.M.	Special Committee on	Division heads of
Sept. 28	313-S	9:00 A.M.	Efficiency in State	Department of
			Government	Administration. Staff report on requested information.
Sept. 27	514-S	10:00 A.M.	Special Committee on Ways	Proposals 47, 48 and 50.
Sept. 28	514-S	9:00 A.M.	and Means	Proposals 45, 47, 48 and 49.
Sept. 28	519-S	10:00 A.M.	Special Committee on	Hearings on Proposals 27, 28,
Sept. 29	519-S	9:00 A.M.	Judiciary	29, 30 and 31.
Sept. 29	529-S	10:00 A.M.	Special Committee on Labor	Review of Service Delivery
Sept. 30	529-S	9:00 A.M.	and Industry	Plans under Job Training Partnership Act. Hearings on Proposal 33—Employment Security Law.
Sept. 30	Governor's Office	10:00 A.M.	State Finance Council	Agenda unavailable.
Oct. 3	514-S	10:00 A.M.	Joint Committee on	Agenda unavailable.
Oct. 4	514-S	9:00 A.M.	Administrative Rules and Regulations	
Oct. 5	519-S	10:00 A.M.	Special Committee on	Agenda unavailable.
Oct. 6	519-S	9:00 A.M.	Energy and Natural Resources	
Oct. 6	531-N	10:00 A.M.	Legislative Budget	Legislative business.
Oct. 7	531-N	Upon adj. of LCC	Committee	
Oct. 7	527-S	9:30 A.M.	Legislative Coordinating Council	Legislative business.

WILLIAM R. BACHMAN  
Director of Legislative  
Administrative Services

Doc. No. 001492

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PUBLISHED BY  
JACK H. BRIER  
Secretary of State  
State Capitol  
Topeka, Kansas 66612

PHONE: 913/296-2236

**State of Kansas****DEPARTMENT OF HUMAN RESOURCES  
KANSAS COUNCIL ON EMPLOYMENT  
AND TRAINING****NOTICE OF MEETING AND AGENDA**

The Kansas Council on Employment and Training will meet from 9:00 a.m.—12:00 noon on Friday, September 23, 1983, in the Executive Dining Room on the Second Floor of Security National Bank, Seventh & Minnesota, in Kansas City, Kansas. The meeting agenda includes the following:

- I. Remarks from Secretary of Human Resources, Jerry Shelor
- II. Status Report on JTPA Transition Activities
- III. Report from Dislocated Worker Committee
- IV. Report from Plans Review Committee
  - a. Presentation of State Employment Service Plan
  - b. Presentation of Service Delivery Area Plans
  - c. Council Recommendations on Plans

The meeting is open to the public.

LARRY E. WOLGAST, Ed.D.  
Assistant Secretary

Doc. No. 001486

**State of Kansas****BOARD OF EMBALMING****NOTICE OF HEARING  
ON PROPOSED  
ADMINISTRATIVE REGULATIONS**

Notice is hereby given to all interested persons that on October 5, 1983, at 1:30 p.m. at the Embalming Board Office, a public hearing shall be held concerning the amendments of K.A.R. 63-1-6, which regards the general rules to practice embalming; K.A.R. 63-1-8, which addresses investigations and hearings; K.A.R. 63-3-18, which states the requirements of a funeral home; and a new regulation, K.A.R. 63-3-20, which concerns prefinanced funeral agreements.

Interested persons shall be given reasonable opportunity at the hearing to present their views of the proposed amendments and new regulation. Anyone wishing to obtain a copy of the full text or fiscal impact statement should write to Douglas M. Smith at the Embalming Board, whose address is 535 Kansas Avenue, Suite 1108, Topeka, KS 66603.

DOUGLAS M. SMITH  
Executive Secretary

Doc. No. 001487

(Published in the KANSAS REGISTER, September 22, 1983.)

**State of Kansas****DEPARTMENT OF TRANSPORTATION****NOTICE OF PUBLIC AUCTION  
AT SITE**

October 27, 1983, 10:00 a.m.

The Kansas Department of Transportation will offer for sale at public auction the following land located approximately two miles west of Parsons, Kansas, on US 160 highway on the north side of the road.

**Tract 1**

A tract of land in the West Half of the Southwest Quarter of Section 16, Township 31 South, Range 19 East of the 6th P.M. The tract contains 10.8 acres, more or less.

**Tract 2**

A tract of land in the West Half of the Southeast Quarter of Section 16, Township 31 South, Range 19 East of the 6th P.M. The tract contains 5.8 acres, more or less.

**Tract 3**

A tract of land in the East Half of the Southwest Quarter of Section 16, Township 31 South, Range 19 East of the 6th P.M. The tract contains 9.3 acres, more or less.

**Tract 4**

A tract of land in the East Half of the Southeast Quarter of Section 16, Township 31 South, Range 19 East, of the 6th P.M. The tract contains 2.4 acres, more or less.

The above tracts contain a total of 28.3 acres more or less, and will be sold as one parcel.

**TERMS OF THE SALE ARE CASH OR  
CERTIFIED CHECK**

**QUITCLAIM DEED ONLY**

**SELLER RESERVES THE RIGHT TO REJECT  
ANY AND ALL BIDS**

**NOT RESPONSIBLE FOR ACCIDENTS**

**KANSAS DEPARTMENT OF TRANSPORTATION**

**JOSEPH R. MYER**  
Property Management Officer  
Bureau of Right of Way

Doc. No. 001485

(Published in the KANSAS REGISTER, September 22, 1983)

**State of Kansas****DEPARTMENT OF TRANSPORTATION****NOTICE TO CONTRACTORS**

Notice is hereby given that sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the office of the Chief of Construction and Maintenance, K.D.O.T., Topeka, Kansas, until 10:00 a.m., C.D.T., October 20, 1983 and then publicly opened:

**DISTRICT I**

**Douglas**—23 C 0330-01—0.276 mile Grading & Bituminous Surfacing, beginning approx. 0.057 mile south of the jct. of Clinton Parkway & county highway FAS-1966; thence north on county highway FAS-1966 (Federal Funds).

**Johnson and Wyandotte**—106 K 2397-01—Highway Lighting at various locations in Johnson and Wyandotte Counties (Federal Funds).

**Lyon and Shawnee**—106 K 2395-01—Highway Lighting at various locations in Lyon and Shawnee Counties (Federal Funds).

**Wyandotte**—105 C 1260-01—1.958 miles Grading & 2 Bridges, beginning approx. at the intersection of county highway FAS-381 & K-7; thence easterly on county highway FAS-381 (Federal Funds).

**Wyandotte**—5-105 K 1020-01—0.359 mile Grading, Bituminous Surfacing & Bridge, beginning approx. at the Wyandotte and Leavenworth County line; thence easterly on K-5 (Bridge over Island Creek) (Federal Funds).

**Wyandotte**—7-105 K 0976-02—Bridge Superstructure on K-7 over Kansas River at Bonner Springs (State Funds).

**DISTRICT II**

**District II**—106 K 2400-01—Highway Lighting at various locations in Dickinson, Ellsworth, Geary, McPherson & Saline Counties (Federal Funds).

**Saline**—85 U 0827-01—Signing at various locations in the City of Salina (Federal Funds).

**DISTRICT III**

**Wallace**—27-100 X 0368-02—0.145 mile Grading & Plant Mix (Comm. Gr.), beginning approx. 0.07 mile south of the intersection of K-27 (Main Street) & South Front Street; thence north on K-27 (Federal Funds).

**DISTRICT V**

**Butler**—196-8 K 1853-01—0.160 mile Grading, Bituminous Surfacing & Bridge; Bridge Widening on K-196 over the Kansas Turnpike located approx. 1.19 miles west of El Dorado (Federal Funds).

**Cowley**—160-18 K 0210-01—0.502 mile Grading, Bituminous Surfacing & 2 Bridges, beginning approx. 8.0 miles east of Winfield; thence east on US-160 (Bridge over Silver Creek) (Federal Funds).

**Harper**—39 C 1519-01—0.132 mile Grading & Bridge, beginning approx. at the north city limits at Bluff City; thence north (Bridge over Bluff Creek) (Federal Funds).

**Reno**—96-78 K 0688-01—0.029 mile Grading, Bituminous Surfacing & Bridge, beginning approx. 0.04 mile north of the intersection of K-96 (Adams Street) & "A" Avenue; thence north on K-96 (Federal Funds).

**Reno**—96-78 M 1317-01—1.956 miles Concrete Pavement Patching, beginning approx. at the jct. of K-96 & US-50; thence north on K-96 in the City of South Hutchinson (State Funds).

**Reno**—50-78 M 1318-01—13.603 miles Concrete Pavement Patching, beginning approx. at the interchange of US-50 & K-96; thence easterly on US-50 (State Funds).

**Sedgwick**—87 C 1721-01—3.137 miles Bituminous Surfacing, beginning approx. 3.7 miles south of Colwich; thence east on county highway FAS-607 (Federal Funds).

**Sedgwick**—87 C 1722-01—3.030 miles Bituminous Surfacing, beginning approx. 3.5 miles east & 4.7 miles south of Kechi; thence east on county highway FAS-83 (Federal Funds).

**Sedgwick**—54-87 M 1316-01—4.581 miles Concrete Pavement Patching, beginning approx. 4.581 miles west of the west city limits of Wichita; thence east on US-54 (Eastbound Lane Only) (State Funds).

**DISTRICT VI**

**Finney**—50-28 K 0302-01—6.326 miles Grading, beginning approx. 6.0 miles east of the Finney-Kearny County line; thence east on US-50 (New Alignment) (Federal Funds).

**Finney**—50-28 K 0303-01—3.974 miles Grading & Bridge, beginning approx. at the jct. of US-83 & US-156; thence north & west on US-50 (New Alignment) (Federal Funds).

Proposals will be issued upon request to all prospective bidders who have been prequalified by the Kansas Department of Transportation on the basis of financial condition, available construction equipment, and experience. Also, a statement of unearned contracts (Form No. 284) must be filed. There will be no discrimination against anyone regardless of race, religion, color, sex, physical handicap, national origin or ancestry in the award of contracts.

Plans and specifications for the project(s) may be examined at the offices of the respective County Clerks or at the Kansas Department of Transportation district offices responsible for the work.

BY ORDER OF THE KANSAS  
DEPARTMENT OF TRANSPORTATION

JOHN B. KEMP  
Secretary

Doc. No. 001493

## State of Kansas

**SOCIAL AND REHABILITATION SERVICES****OPEN MEETING NOTICE AND NOTICE TO ALL PERSONS HAVING AN INTEREST IN THE ADMINISTRATIVE REGULATIONS PROMULGATED BY THE SECRETARY OF SOCIAL AND REHABILITATION SERVICES**

Notice is hereby given to all interested parties that the Department of Social and Rehabilitation Services will hold an Open Meeting on October 4, 1983, at 9:00 a.m., in the Staff Development Training Center, Topeka State Hospital, Topeka, Kansas.

The scheduled agenda for the Open Meeting includes:

- Ideas related to possible needed legislation during the 1984 session.
- Preliminary discussion of staff proposals concerning permanent administrative regulations.
- Adoption on a temporary basis of amendments to K.A.R. 30-4-121 and 30-5-108. Such changes are scheduled to become effective on November 1, 1983.

1. 30-4-121. Special allowances for funeral and cemetery expenses. This regulation is being amended to:

- a. Authorize an allowance of \$150.00 to purchase an outside container, if required, as a funeral expense; and
- b. delete the purchase of a vault as a cemetery expense.

2. 30-5-108. Scope of services for durable medical equipment, medical supplies, orthotics, and prosthetics. This regulation is being amended to provide durable medical equipment for recipients who are residing in intermediate care facilities for the mentally retarded.

A copy of the proposed regulations and fiscal impact statement may be obtained prior to October 4, 1983 by contacting Mrs. Mary Slaybaugh, Legal Division, State Department of Social and Rehabilitation Services, 6th Floor, State Office Building, Topeka, Kansas 66612, (913) 296-3969. Written comments may be submitted prior to such date. Such comments should be forwarded to Dr. Harder, Secretary of Social and Rehabilitation Services, 6th Floor, State Office Building, Topeka, Kansas 66612.

The public is invited to this meeting. Telephone hook-ups are provided at the following locations of Social and Rehabilitation Services offices: Chanute, Emporia, Garden City, Hays, Hiawatha, Hutchinson, Junction City, Kansas City, Lawrence, Olathe, Ottawa, Parsons, Pittsburg, Pratt, Salina, Topeka (Area Office and State Office Building), Wichita, and Winfield.

ROBERT C. HARDER  
Secretary

Doc. No. 001483

## State of Kansas

**BOARD OF TAX APPEALS****SUMMARIZED ORDERS OF STATE-WIDE IMPACT**

Docket No. 1678-83-TG

**Tax Situs**—business situs for application of tax upon gross earnings derived from money, notes and other evidences of debt. In re application of Dwane L. Wallace, Sedgwick County, Kansas, dated September 7, 1983.

The general rule, in Kansas, is the maxim *mobilia sequuntur personam*, which means movables follow the person. This is a fundamental principle in the taxation of gross earnings derived from money, notes, and other evidences of debt. An exception to this rule has been designated the Business Situs Rule; it has often been referred to in Kansas court decisions. It was codified by L. 1982, ch. 63, effective May 13, 1982. The Board concludes it is necessary for one claiming such a situs to show that possession and control of the property has been localized in some independent business away from the owner's domicile so that its substantial use and value primarily attaches to and becomes an asset of the outside business. This may not be found where the unfettered control of the assets remains in the hands of the taxpayer, and are not integrated into the business.

Docket No. 3218-83-DT *et al.*

**Severance Tax**—marginal production exemptions; requirement for 12 months continuous production prior to seeking exemption. In re appeal of N & B Enterprises, *et al.*, from an Order of the Director of Taxation, dated September 7, 1983.

Appellants sought marginal production exemptions which are permitted under Section 2(b) of the Kansas Severance Tax Act. The act does not define average daily production. The director, through the Department of Revenue, has defined it to include the requirement of 12 months continuous production. Absent statutory direction, an administrative agency may adopt standards to effectively administer a law so long as that standard is not arbitrary or capricious. Any person who has been denied exemption certification is free to reapply for the exemption *at any time* when a more recent 12 month history documents entitlement. The department will refund those taxes actually paid after the date a lease is determined to have the required 12 month historical data showing less than the marginal rate of production for which an exemption certificate may be granted. As the exemption period will be for a period of 12 months, the requirement of a 12 month history of continuous production is found to have a rational basis, and is sustained.

CHARLES B. JOSEPH  
Chairman

Doc. No. 001490

## State of Kansas

**DEPARTMENT OF ADMINISTRATION  
DIVISION OF PURCHASES****NOTICE TO BIDDERS**

Sealed bids for items hereinafter listed will be received by the Director of Purchases, State Office Building, Topeka, Kansas, until 2:00 p.m., CST or DST, whichever is in effect on the date indicated, and then will be publicly opened:

**MONDAY, OCTOBER 3, 1983**

- #25707  
Statewide—INTERIOR OPENSOURCE FURNITURE  
#25750  
All State Agencies in Greater Topeka Area—ELECTRIC TYPEWRITER MAINTENANCE SERVICE  
#55330  
University of Kansas Medical Center, Kansas City—AUDITORIUM SEATING  
#55331  
Department of Human Resources, Topeka—K-BEN 22 AND 23 BENEFIT WARRANT  
#55332  
Larned State Hospital, Larned—WINDOW SHADES  
#55333  
Kansas State University, Manhattan—USED CORN HEAD  
#55334  
Larned State Hospital, Larned—CUSTOM MADE WINDOW SHUTTERS  
#55356  
University of Kansas Medical Center, Kansas City—OCTOBER (1983) MEAT PRODUCTS  
#55363  
Wichita State University, Wichita—ANEMOMETER EQUIPMENT

**TUESDAY, OCTOBER 4, 1983**

- #A-4779  
Topeka State Hospital, Topeka—ROOF REPLACEMENT, BRIGHAM BUILDING  
#A-4798  
Parsons State Hospital, Parsons—REROOF WILLOW COTTAGE  
#25755  
University of Kansas, Lawrence—NOVEMBER (1983) MEAT PRODUCTS  
#55337  
Department of Human Resources, Topeka—ELECTRONIC TYPEWRITERS  
#55353  
Osawatomie State Hospital, Osawatomie—INSPECT AND REPAIR ELECTRICAL SWITCHGEAR

**WEDNESDAY, OCTOBER 5, 1983**

- #A-4781  
Winfield State Hospital and Training Center, Winfield—REROOF MAINTENANCE BUILDING  
#25754  
Statewide—NOVEMBER (1983) MEAT PRODUCTS

**THURSDAY, OCTOBER 6, 1983**

- #25752  
Kansas State University, Manhattan; University of Kansas Medical Center, Kansas City; Wichita State University, Wichita—ANIMAL BEDDING

#55357

Kansas State Industrial Reformatory, Hutchinson—LUMBER AND PLYWOOD

#55360

Winfield State Hospital and Training Center, Winfield—FEEDING FORMULA

#55362

Winfield State Hospital and Training Center, Winfield—GROCERIES

#55365

Kansas State Industrial Reformatory, Hutchinson—MEAT PRODUCTS

#55366

Board of Embalming; Behavioral Sciences Regulatory Board; Board of Technical Professions; Commission on Civil Rights, Topeka—MOVING SERVICES

#55367

Kansas Highway Patrol, Topeka—LUBRICATING OIL

#55368

Department of Transportation, Topeka—REFLECTIVE SHEETING, SALINA

#55369

Kansas Fish and Game Commission, Pratt—WELDERS

#55370

Kansas Correctional Industries, Lansing—STEEL SHEETS

#55371

University of Kansas, Lawrence—PLAIN PAPER COPIER

#55372

University of Kansas, Lawrence—PRINTING OF "ON THE HILL"

#55375

University of Kansas, Lawrence—PLAIN PAPER COPIER

#55376

Kansas Fish and Game Commission, Pratt—MOWERS

**FRIDAY, OCTOBER 7, 1983**

#55364

Kansas State Industrial Reformatory, Hutchinson—MEAT PRODUCTS

**MONDAY, OCTOBER 10, 1983**

#25760

Kansas State Penitentiary, Lansing—CHLORINE GAS

**TUESDAY, OCTOBER 11, 1983**

#A-4851

Pittsburg State University, Pittsburg—REPLACE RUSS/PORTER UTILITY TUNNEL

#55329

Norton State Hospital, Norton—ELEVATOR REPAIR

#55346

Department of Transportation, Garden City—FURNISH ALL LABOR AND EQUIPMENT NECESSARY TO LOAD AND DELIVER APPROXIMATELY 2,000 YARDS OF MRA SPECIAL AGGREGATE

#55347

Department of Transportation, Topeka—PLANT MIX, BITUMINOUS MIXTURE, COMMERCIAL GRADE, BROWN COUNTY

#55348

Department of Transportation, Topeka—PLANT MIX, BITUMINOUS MIXTURE, FOB VENDORS PLANT, NEMAHA, MARSHALL COUNTY AND SHAWNEE COUNTY

(continued)

WEDNESDAY, OCTOBER 12, 1983

#A-4726

Norton State Hospital, Norton—INSULATION IMPROVEMENTS IN THIRTEEN (13) BUILDINGS

#25756

Department of Revenue, Topeka—UNIFORM COMPONENTS

MONDAY, OCTOBER 24, 1983

#25759

Historical Society, Topeka—MUSEUM COLLECTION PROPERTY INSURANCE

NICHOLAS B. ROACH  
Director of Purchases

Doc. No. 001491

## State of Kansas

DEPARTMENT OF ADMINISTRATION  
DIVISION OF ARCHITECTURAL SERVICESNOTICE OF COMMENCEMENT  
OF NEGOTIATIONS  
FOR TECHNICAL SERVICES

Notice is hereby given of the commencement of negotiations for contracts for air and water balancing of the mechanical systems for the following project:

Hospital Building  
Larned State Hospital  
Larned, Kansas

Interested individuals and firms must be certified by the National Environmental Balancing Bureau or the Associated Air Balance Council. Said individuals or firms must be engaged in balancing work on a full-time basis. Balance agencies which are of the same parent company as the designers or contractors of a particular project will not be considered for that project.

Notice is further given of the commencement of negotiations for an infra-red scan of the Primary Electrical System at the University of Kansas Medical Center.

Interested individuals and firms must be an independent testing company using trained personnel who work full-time on infra-red testing projects. Personnel shall be familiar with the operation of the infra-red camera and capable of analyzing the results. The infra-red survey shall be done with a Model No. 750 infra-red camera as manufactured by AGA Corporation of Secaucus, New Jersey, or equal. Submit qualifications with letter of interest.

Any additional information, questions or expressions of interest should be directed to Mr. Myron Reed, Division of Architectural Services, 625 Polk, Topeka, Kansas 66603, (913) 233-9367, prior to October 7, 1983.

JOHN B. HIPPIE  
Director

Division of Architectural Services

Doc. No. 001495

## State of Kansas

SOCIAL AND REHABILITATION SERVICES  
ADVISORY COMMISSION ON JUVENILE  
OFFENDER PROGRAMS

## NOTICE OF MEETING

The Advisory Commission on Juvenile Offender Programs will meet on Friday, September 23, 1983, at the Youth Center at Atchison, beginning at 10:00 a.m.

ROBERT C. BARNUM  
Commissioner, Youth Services

Doc. No. 001484

## State of Kansas

DEPARTMENT OF  
HEALTH AND ENVIRONMENT

## TEMPORARY ADMINISTRATIVE REGULATIONS

(Approved by the State Rules and Regulations Board  
August 30, 1983. Will expire May 1, 1984.)

Article 39.—LICENSURE OF  
ADULT CARE HOMES

**28-39-79. Nurse aide training program.** (a) Nurse aide course. Unlicensed direct care staff shall complete an approved course of training as a requirement for taking the examination provided for in K.A.R. 28-39-80.

(1) Each course shall be prepared and administered in accordance with the training course guidelines prescribed in the "Kansas nursing home aide curriculum." Copies of the guidelines may be obtained from the department of health and environment on request.

(2) A course of training may be prepared and administered by:

- (A) A state-accredited community college;
- (B) A state-accredited vocational-technical school;
- (C) A proprietary school as defined in K.S.A. 72-4919; or
- (D) A state-licensed adult care home or group of licensed adult care homes.

(3) Each course shall consist of a combination of classroom and clinical instruction. At least 50 percent of the course shall be provided as classroom instruction.

(4) Any person who intends to offer a nurse aide training course shall submit a completed application form to the department of health and environment at the beginning of each new course and shall receive approval prior to offering the course. Copies of the application form are available from the department. Any change in course content shall require approval by the department.

(b) Instructor qualifications. Each instructor shall be a registered nurse with a minimum of two years' nursing experience. At least one of these years shall have been as a nurse in an adult care facility or as an educator.

(c) Instructor responsibilities. Each instructor shall be responsible for ensuring that the following requirements are met:

(continued)



- (1) Course objectives are accomplished;
- (2) only persons having appropriate skills and knowledge are selected to conduct any part of the training;
- (3) the provision of direct, individual care to residents by a trainee is limited to supervised clinical experiences which are for the purpose of learning nursing skills. Direct, individual care means nursing activities that are resident oriented and which involve personal contact; and
- (4) that each trainee demonstrates competency in those skills identified on the part I guidelines checklist. The checklist shall be signed by the instructor as evidence of successful completion of part I of the course. (Authorized by K.S.A. 39-932, L. 1983, ch. 286, sec. 10; implementing L. 1983, ch. 286, sec. 10; effective T-84-22, Aug. 30, 1983.)

**28-39-80. Examination.** (a) Each nurse aide trainee shall take a state examination as prescribed in K.S.A. 39-936, as amended by L. 1983, ch. 286, sec. 10, after completing a course of training approved under K.A.R. 28-39-79.

(b) Each trainee shall pay an examination fee of \$7.50 to the secretary of health and environment prior to the examination date. This fee shall be required each time the examination is taken.

(c) Each instructor shall collect the fee from each trainee eligible to take the examination and shall submit the fees and a roster of those trainees' names to the department.

(d) Each trainee, whose name appears on a roster, shall be scheduled by the secretary for the examination and shall receive a slip bearing an identification number. The trainee shall give the slip to the proctor at the examination site as evidence of eligibility to take the examination.

(e) The examination may be read to any applicant who has difficulty reading the English language. The instructor shall submit to the department a written request for the oral administration of the examination. Any person who passes the examination under this subsection shall receive a certificate imprinted with the word "limited" to identify that the person has difficulty with reading.

(f) Any applicant whose second language is English may use a bilingual dictionary during the examination.

(g) The secretary shall issue a certificate to each person who passes the examination.

(h) Any trainee who fails the examination shall be allowed to take the examination one more time within the year from the first day of enrollment in the nurse aide training course, without having to have additional training.

(i) If a trainee fails the examination on the second attempt, that person shall be required to have additional training. The person shall be allowed to take the examination again when the instructor advises the department that the additional training has been completed and submits to the department an examination fee, the trainee's name, and the trainee's original identification number. Upon receipt of the information and fee, the secretary shall schedule the trainee to

take the examination. (Authorized by K.S.A. 39-932, L. 1983, ch. 286, sec. 10; implementing L. 1983, ch. 286, sec. 10; effective T-84-22, Aug. 30, 1983.)

## Article 42.—CERTIFICATES OF NEED

**28-42-1. Definitions.** (a) "Sponsor" means any person who notifies the state agency of an intent to undertake a project which requires a certificate of need, or any person who submits an application for a certificate of need.

(b) "Predevelopment activities" means those activities in preparation for the offering or development of a project which requires a certificate of need, including architectural designs, plans, working drawings, and specifications.

(c) "Directly affected persons" means the sponsor, the health systems agency serving the area in which the proposed project is to be located, health systems agencies serving contiguous areas, members of the public who will be served by the proposed project, health facilities located in the health service area of the proposed project which provide services similar to those of the proposed project, health facilities which have notified the state agency formally of an intention to provide similar services in the future, and any agency which establishes rates for health facilities in the health service area of the proposed project.

(d) "Permanent redistribution of bed capacity" means a health facility's conversion of more than 10 beds or 10% of its total bed capacity, whichever is less, from one licensure category to another for a period of over 90 days.

(e) "Physical construction" means:

(1) In the case of a new health facility or lateral additions to an existing health facility, the excavation for the foundation or installation of foundation forms, pilings, or footings by the contractor;

(2) in the case of vertical additions to an existing health facility, the construction of the structural framework by the contractor; and

(3) in the case of renovation or alteration of an existing health facility, installation of fixtures in an unfinished area, or removal of existing fixtures in an area in preparation for new construction by the contractor.

(f) "Schematic phase" means that phase of a construction project which includes development of drawings, other documents illustrating the scale and relationship of project components, and other initial studies.

(g) "Design development phase" means that phase of a construction project which includes production of drawings and other documents which fix and describe the size and character of the entire project as to structural, mechanical, and electrical systems, materials and other essentials that may be appropriate.

(h) "Estimated project cost" means:

(1) In the case of a construction project, the total project cost as certified by a registered architect or licensed professional engineer during the schematic phase of architectural development; or

(continued)



(2) in the case of a project which consists solely of equipment purchases, a certified estimate of cost from the vendor of the equipment.

(i) "Final project cost" means:

(1) In the case of a construction project, the total project cost as certified by a registered architect or licensed professional engineer at the design development phase; or

(2) in the case of a project which consists solely of equipment purchases, the total cost of the equipment as specified in the purchase agreement.

(j) "Estimated annual operating budget of a health facility service" means the anticipated, total annual expenditures required to establish and implement a health facility service. The estimation of these expenditures shall include consideration of labor costs, including employees' benefits, contractual services, consumable supplies, equipment, utilities, rent, depreciation, and financing, and shall be verified by a certified public accountant. (Authorized by K.S.A. 65-4704 and 65-4821; implementing K.S.A. 1982 Supp. 65-4805, as amended by 1983 H.B. 2014, Section 2, K.S.A. 65-4806, as amended by 1983 S.B. 414, Section 7, K.S.A. 1982 Supp. 65-4808, and 65-4815; effective May 1, 1979; amended, E-81-7, March 12, 1980; amended May 1, 1980; amended, E-81-34, November 12, 1980; amended May 1, 1981; amended T-84-21, Aug. 30, 1983.)

**28-42-5. Application for certificate.** (a) There shall be 12 application cycles. A cycle shall begin on the second Monday of each month. Applications shall be submitted in triplicate to the state agency, and in the requested number (not to exceed 20 copies) to the appropriate health systems agency, by that date to be considered by the state agency during that particular application cycle. All applications, except those submitted to terminate or reduce services, shall be accompanied by the application fee. The state agency shall review each application to determine whether it is complete and shall notify the sponsor by the 15th day of the applicable application cycle as to whether the application is complete. If so, the application shall be filed on the fifteenth day of the applicable application cycle. If the application is incomplete, the state agency shall notify the sponsor of the additional information needed to complete the application. Incomplete applications shall be reviewed again during the application cycle commencing after the date upon which the additional information needed to complete the application is submitted.

(b) If the sponsor has not responded within three months to the state agency's request for additional information, the state agency may notify the sponsor that the application is considered withdrawn.

(c) The state agency shall not accept, for review, any application for a project which was previously denied unless the appeal process relating to the denial has been exhausted.

(d) All completed applications reviewed in the same cycle which pertain to similar types of services, facilities, or equipment and which affect the same health service area, as determined by the state agency,

shall be considered in relation to each other. (Authorized by K.S.A. 65-4704, K.S.A. 65-4806, as amended by 1983 S.B. 414, Section 7, and K.S.A. 65-4821; implementing K.S.A. 65-4806 as amended by 1983 S.B. 414, Section 7; effective May 1, 1979; amended, E-81-7, March 12, 1980; amended May 1, 1980; amended, E-81-34, November 12, 1980; amended May 1, 1981; amended T-84-21, Aug. 30, 1983.)

**28-42-10. Exemptions for health maintenance organizations.** (a) Projects to establish the organizational structure of health maintenance organizations shall not be reviewed for certificates of need if the sponsor of such a project files with the state agency a letter requesting an exemption from certificate of need review.

(b) Projects specified in K.S.A. 65-4805(a)(1) to 65-4805(a)(8) shall not be reviewed for certificates of need if exemption requests are filed with and approved by the state agency and if the state agency determines the sponsors to be:

(1) A health maintenance organization or a combination of health maintenance organizations which:

(A) Have in their service areas enrollments of at least 50,000 individuals;

(B) offer the services in locations which are reasonably accessible to the enrolled populations; and

(C) demonstrate that at least 75% of those who will receive the services will be enrollees of the health maintenance organizations; or

(2) health facilities which are or will be controlled by health maintenance organizations meeting the conditions set forth in (A), (B), and (C) of (b)(1) of this regulation; or

(3) health facilities or portions of health facilities which are or will be leased to health maintenance organizations meeting the conditions set forth in (A), (B), and (C) of (b)(1) of this regulation and which have at least 15 years remaining in the term of the lease.

(c) Facilities or equipment receiving exemptions pursuant to subsection (b) of this regulation shall not be sold or leased, and control or use of these assets shall not be transferred to any other organizations unless:

(1) The state agency issues certificates of need approving their sale, lease, or acquisition; or

(2) the state agency grants exemptions pursuant to subsection (b) of this regulation.

(d) Certificate of need applications submitted by health maintenance organizations, or by health care facilities controlled or leased by health maintenance organizations, for projects which are not exempt from review shall be approved by the state agency if it is determined that:

(1) The proposed projects are required to meet the needs of the members of the health maintenance organizations and of the new members which such organizations can be reasonably expected to enroll; and

(2) the health maintenance organizations are unable to provide, through services or facilities which can be reasonably expected to be available to the organizations, their health facility services in a reasonable and

(continued)

cost-effective manner which is consistent with the basic methods of operation of the organizations and which makes such services available on long-term bases through physicians and other health professionals associated with them.

(e) Facilities or equipment receiving certificates of need pursuant to subsection (d) of this regulation shall not be sold or leased, nor shall control or use of these assets be transferred to any other organizations unless certificates of need are issued by the state agency for their sale, lease, or acquisition. (Authorized by K.S.A. 1982 Supp. 65-4805 and K.S.A. 65-4821; implementing K.S.A. 1982 Supp. 65-4805, as amended by 1983 H.B. 2014, Section 2; effective, E-81-34, November 12, 1980; modified, 1981 SCR 1619; effective May 1, 1981; amended T-84-21, Aug. 30, 1983.)

BARBARA J. SABOL  
Secretary

Doc. No. 001468

## State of Kansas

### ANIMAL HEALTH DEPARTMENT

#### TEMPORARY ADMINISTRATIVE REGULATIONS

(Approved by the State Rules and Regulations Board August 30, 1983. Will expire May 1, 1984.)

#### Article 2.—BOVINE BRUCELLOSIS

**9-2-1. Official vaccinate.** (a) Official calfhood vaccinate means any heifer calf which has been officially vaccinated for brucellosis with an approved vaccine and which is permanently identified. Official calfhood vaccinates shall receive either the standard dose or the reduced dose vaccination as follows:

(1) Standard dose vaccinate. Female cattle of a dairy breed receiving the standard dose shall be vaccinated by a veterinary services representative, state representative, or an accredited veterinarian with an approved *Brucella abortus* Strain 19 vaccine containing a minimum of 25 billion live cells per five ml. dose, in accordance with the vaccine labeling, while from two through six months (60 to 179 days) of age.

Female cattle of a beef breed or female bison receiving the standard dose shall be vaccinated by a veterinary services representative, state representative, or an accredited veterinarian with an approved *Brucella abortus* Strain 19 vaccine containing a minimum of 25 billion live cells per five ml. dose, in accordance with the vaccine labeling, while from two through 10 months (60 to 299 days) of age.

(2) Reduced dose vaccinate. Female cattle of any breed or female bison receiving the reduced dose shall be vaccinated by a veterinary services representative, state representative, or an accredited veterinarian with an approved *Brucella abortus* Strain 19 vaccine containing from three to 10 billion live cells per two ml. dose, in accordance with the vaccine labeling, while from four through 10 months (120 to 299 days) of age.

(b) The veterinarian shall send to the livestock commissioner, within 10 days after date of vaccination, four copies of an official record of calfhood vac-

cination, giving identification tag number, KV tattoo, age, breed, date of vaccination, and name and serial number of vaccine used. After being approved by the livestock commissioner, one copy of the official record shall be sent to the owner and one copy shall be sent to the veterinarian. (Authorized by and implementing K.S.A. 47-608, 47-622, 47-624, 47-657; effective Jan. 1, 1966; amended Jan. 1, 1968; amended Jan. 1, 1969; amended Jan. 1, 1974; amended, T-84-23, Aug. 30, 1983.)

**9-2-2. Identification of calfhood vaccinates.** (a) Any official calfhood vaccinate shall be identified by one of the following methods:

(1) With an official Kansas CV tag or D.H.I.A. tag in the right ear;

(2) With an individual tattoo; or

(3) With a registered brand.

(b) In addition, any official calfhood vaccinate shall be tattooed in the left ear with the official KV tattoo. The tattoo shall include, from left to right:

(1) The digital numbers 1, 2, 3 or 4, designating the quarter in which the calf was vaccinated;

(2) The KV symbol; and

(3) The last digit of the calendar year in which the calf was vaccinated. (Authorized by K.S.A. 47-608, 47-622, 47-624, 47-657; effective Jan. 1, 1966; amended Jan. 1, 1974; amended T-84-23, Aug. 30, 1983.)

**9-2-3 and 9-2-4.** (Authorized by K.S.A. 47-608, 47-622, 47-624, 47-657; effective Jan. 1, 1966; revoked, T-84-23, Aug. 30, 1983.)

**9-2-5.** (Authorized by K.S.A. 47-608, 47-622, 47-624, 47-657; implementing K.S.A. 47-658a and 47-658b; effective Jan. 1, 1966; amended May 1, 1982; revoked, T-84-23, Aug. 30, 1983.)

**9-2-7 and 9-2-8.** (Authorized by K.S.A. 47-608, 47-622, 47-624 and 47-657; effective Jan. 1, 1966; amended Jan. 1, 1974; revoked, T-84-23, Aug. 30, 1983.)

**9-2-9.** (Authorized by K.S.A. 47-608, 47-622, 47-624 and 47-657; effective Jan. 1, 1966; revoked, T-84-23, Aug. 30, 1983.)

**9-2-10.** (Authorized by K.S.A. 47-608, 47-622, 47-624, 47-657; effective Jan. 1, 1966; amended Jan. 1, 1974; revoked, T-84-23, Aug. 30, 1983.)

**9-2-11 to 9-2-13.** (Authorized by K.S.A. 47-608, 47-622, 47-624, 47-657; effective Jan. 1, 1966; revoked, T-84-23, Aug. 30, 1983.)

**9-2-14 and 9-2-15.** (Authorized by K.S.A. 47-608, 47-622, 47-624, 47-657; effective Jan. 1, 1966; amended Jan. 1, 1974; revoked, T-84-23, Aug. 30, 1983.)

**9-2-16.** (Authorized by K.S.A. 47-608, 47-622, 47-624, 47-657; effective Jan. 1, 1966; revoked, T-84-23, Aug. 30, 1983.)

**9-2-17.** (Authorized by K.S.A. 47-608, 47-622, 47-624, 47-657; effective Jan. 1, 1966; amended Jan. 1, 1974; revoked, T-84-23, Aug. 30, 1983.)

(continued)

**9-2-18 and 9-2-19.** (Authorized by K.S.A. 47-608, 47-622, 47-624, 47-657; effective Jan. 1, 1966; revoked, T-84-23, Aug. 30, 1983.)

**9-2-20 and 9-2-21.** (Authorized by K.S.A. 47-608, 47-622, 47-624, 47-657; effective Jan. 1, 1966; amended Jan. 1, 1974; revoked, T-84-23, Aug. 30, 1983.)

**9-2-23 to 9-2-26.** (Authorized by K.S.A. 47-608, 47-622, 47-624, 47-657; effective Jan. 1, 1966; amended Jan. 1, 1974; revoked, T-84-23, Aug. 30, 1983.)

**9-2-28 to 9-2-30.** (Authorized by K.S.A. 47-608, 47-622, 47-624, 47-657; effective Jan. 1, 1966; amended Jan. 1, 1974; revoked, T-84-23, Aug. 30, 1983.)

**9-2-31.** (Authorized by K.S.A. 47-608, 47-610, 47-622, 47-624, 47-657; effective E-70-40, Aug. 19, 1970; effective Jan. 1, 1971; amended Jan. 1, 1974; revoked, T-84-23, Aug. 30, 1983.)

**9-2-32. Brucellosis—uniform methods and rules.** The provisions of the brucellosis eradication uniform methods and rules, effective April 1, 1981, the amendments to brucellosis eradication uniform methods and rules, effective May 1, 1982, and the amendments to brucellosis eradication uniform methods and rules, effective August 15, 1983, approved by the United States department of agriculture, animal and plant health inspection service, as the minimum standards for achieving and maintaining certified and validated herds and certified and validated area status, are hereby adopted by reference, with the following exceptions:

- (a) Part I-P, Page 14—Official vaccinate; and
  - (b) Part I-R, Page 16—Identification of vaccinates.
- (Authorized by and implementing K.S.A. 47-608, 47-610, 47-657; effective T-84-23, Aug. 30, 1983.)

**9-2-33. Change of ownership requirements for intrastate movement.** "Test eligible cattle," as defined in the uniform methods and rules, that are offered for sale or sold shall be tested for brucellosis on the date of sale. The seller shall be responsible for brucellosis testing. (Authorized by and implementing K.S.A. 47-608, 47-610, 47-657; effective T-84-23, Aug. 30, 1983.)

#### Article 14.—LIVESTOCK DEALERS REGISTRATION

**9-14-1. Definitions.** The following definitions shall apply in the interpretation, administration and enforcement of Article 14:

- (a) "Commissioner" means the livestock commissioner of the state of Kansas.
- (b) "Livestock" means cattle, swine, horses, sheep, goats, and poultry.
- (c) "Livestock dealer" means any person engaged in the business of buying or selling livestock in commerce, either on that person's own account or as the employee or agent of the seller or purchaser, or any person engaged in the business of buying or selling livestock in commerce on a commission basis. It shall

not include any person who buys or sells livestock as part of that person's own breeding, feeding, or dairy operation, nor any person who receives livestock exclusively for immediate slaughter.

(d) "Person" means any individual, partnership, corporation, company, firm, or association. "Person" does not include any public livestock market operator licensed under K.S.A. 47-1001 *et seq.*, or any feed lot operator licensed under K.S.A. 47-1501 *et seq.* (Authorized by and implementing K.S.A. 47-607d, 47-610; effective T-84-23, Aug. 30, 1983.)

**9-14-2. Registration; application; fee.** Any person operating as a livestock dealer in Kansas shall register with the Kansas animal health department. Registration shall be made on an application form approved by the commissioner. An annual fee of \$40.00 shall accompany the application. If the registration is denied or withdrawn, the fee shall not be refundable. All registrations expire on June 30 following the date of issuance.

The commissioner shall remit all moneys received under this regulation to the state treasurer at least monthly. Upon receipt, the state treasurer shall deposit the entire amount in the state treasury and shall credit it to the livestock dealers' registration fee fund. All expenditures from that fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the commissioner or by a person designated by the commissioner. (Authorized by and implementing K.S.A. 47-607d, 47-610; effective T-84-23, Aug. 30, 1983.)

**9-14-3. Recordkeeping; violations.** Each livestock dealer shall keep records and accounts of all livestock purchased for resale that are sufficient to enable the commissioner to trace individual animals back to the herd of origin, to the point of destination or both. These records and accounts shall be kept for a minimum of two years after livestock were purchased for resale. The commissioner or the commissioner's employees or agents shall have the authority to examine the records and accounts during normal working hours. After notice and hearing, the commissioner may deny any application for registration or suspend or revoke any registration in force, if formal findings are made that the person has failed repeatedly to maintain records and accounts that are sufficient to allow the commissioner to trace animals back to the herd of origin, to the point of destination or both. (Authorized by and implementing K.S.A. 47-607d, 47-610; effective T-84-23, Aug. 30, 1983.)

#### ANIMAL HEALTH DEPARTMENT

Doc. No. 001469

## State of Kansas

## ATTORNEY GENERAL

## OPINION NO. 83-131

**Crimes and Punishments—Sex Offenses—Promoting Prostitution; Newspaper Advertisements.** Senator Ronald R. Hein, Twentieth District, Topeka, September 9, 1983.

A newspaper may refuse to accept for publication any advertisement which is presented to it without a violation of the First or Fourteenth Amendments to the United States Constitution, except in those situations where a clear restraint of trade results or some other protected right is infringed. A newspaper may accordingly refuse to publish any individual advertisement or class of advertisements for businesses such as massage parlors. Should such advertisements be accepted for publication, a newspaper would not be engaging in any activity which is included in the criminal offense of promoting prostitution (K.S.A. 21-3513), which, as a penal statute, must be narrowly construed. Cited herein: K.S.A. 21-3513, U.S. Const., Amend. I, and Amend. XIV. JSS

## OPINION NO. 83-132

**Consumer Credit Code—Consumer Credit Transactions—Prohibition on Prepayment Penalties; Pre-emption as to National Banks.** Donald O. Phelps, Consumer Credit Commissioner, Topeka, September 9, 1983.

K.S.A. 16a-2-509, contained in the Kansas Consumer Credit Code, provides that a consumer may prepay in full the unpaid balance of a consumer credit transaction at any time without penalty. Such transactions include both consumer credit sales [K.S.A. 1982 Supp. 16a-301(10)] and consumer credit loans [K.S.A. 1982 Supp. 12a-301(13)], with the prohibition binding on any assignee of either the seller's or lender's right to payment. While a regulation of the Comptroller of the Currency [12 C.F.R. § 29.6, as amended in 48 Fed. Reg. 9512, 9513] pre-empts the application of K.S.A. 16a-2-509 to national banks making adjustable-rate mortgage loans, a seller which enters into consumer credit sales cannot avail itself of the pre-emption provisions merely because it subsequently assigns the right to payment to a national bank. Cited herein: K.S.A. 1983 Supp. 16a-1-301, K.S.A. 16a-2-509, 12a-3-402, 12 U.S.C. §§ 371, 3803, 12 C.F.R. §§ 29.1, 2916, as amended in 48 Fed. Reg. 9512-13, U.S. Const., Art. 6, Cl. 2. JSS

## OPINION NO. 83-133

**Cities—Officers—Social Security Benefits.** Patrick J. Hurley, Secretary of Administration, Department of Administration, Topeka, September 9, 1983.

A city ordinance which purports to authorize "independent contractors" to exercise the sovereign power of the city is contrary to statewide public policy, and is void. However, individuals who act as city attorney and municipal judge, under such an ordinance, are *de facto* officers of the city, and their acts are valid insofar

as they involve the public and third parties. Additionally, the legal and judicial services provided by said individuals constitute "employment," as said term is defined in the *Old Age and Survivors Insurance Act*, and social security contributions are payable by the city with respect to remuneration paid for such services. Cited herein: K.S.A. 40-2301, 40-2302, 40-2305, 60-1205, L. 1983, ch. 157, § 1, Kan. Const., Art. 9, § 5. TRH

## OPINION NO. 83-134

**Cities—Officers—Social Security Benefits.** Merlin G. Wheeler, Madison City Attorney, Emporia, September 9, 1983.

Pursuant to city home rule powers, a city may exclude certain functions from the office of city attorney, and contract with an individual or a law firm to perform such work on an hourly fee basis. Under such circumstances, the remuneration received by the individual or law firm is not subject to withholding for social security purposes. Cited herein: K.S.A. 40-2302(a). TRH

## OPINION NO. 83-135

**State Departments; Public Officers and Employees—State Moneys—Investments; Civil Rights.**

**State Boards, Commissions and Authorities—Public Employees Retirement Systems—Investments; Civil Rights.** Senator Billy Q. McCray, Twenty-Ninth District, Wichita; Representative Norman E. Justice, Thirty-Fourth District, Kansas City, September 12, 1983.

Neither the Kansas Constitution nor current statutes preclude investments by the Kansas Public Employees Retirement System or the State Pooled Money Investment Board in banks or corporations doing business with, or having investments in, the country of South Africa. Until both the Kansas Legislature and the governor approve legislation to limit such investments, these public agencies are free to make otherwise prudent investments. Cited herein: K.S.A. 17-5004, 44-1001, 44-1002, 44-1009, 44-1015, 44-1016, 44-1017, 44-1027, 74-4901, K.S.A. 1982 Supp. 74-4909, K.S.A. 74-4921, K.S.A. 1982 Supp. 75-4221a, K.S.A. 75-4254, 1982 Senate Resolution No. 1874, 1983 House Resolution No. 6056, 1983 House Resolution No. 6055, Kan. Const., Art. 2, § 20, U.S. Const., Art. VI, Cl. 2. MWB

## OPINION NO. 83-136

**Counties and County Officers—Sheriffs—Deputies.** William L. Thompson, Rice County Sheriff, Lyons, September 12, 1983.

A sheriff of a county having a population of less than one hundred thousand may not appoint special deputies under the authority of K.S.A. 19-805a. Such sheriffs may, however, under the general appointment power granted by K.S.A. 19-805, as amended, appoint deputy sheriffs and limit, in writing, the extent of said appointment to the performance of particular acts.

(continued)

Cited herein: K.S.A. 19-805, as amended by L. 1983, ch. 91, 19-805a, 19-805c, K.S.A. 1982 Supp. 22-2401. JEF

### OPINION NO. 83-137

**Automobiles and Other Vehicles—Uniform Act Regulating Traffic; Parties, Arrests, Citations, Procedures and Penalties—Appearance Bonds.**

**Cities and Municipalities—Municipal Courts; Appearance and Conditions of Release—Appearance Bonds.**

**Kansas Constitution—Corporations—Municipal Home Rule Powers; Appearance Bonds.** L. Franklin Taylor, City Attorney of DeSoto, Olathe, September 12, 1983.

K.S.A. 8-2107 (as amended by L. 1983, ch. 42, § 1) authorizes a law enforcement officer to obtain a valid Kansas driver's license as security for a person's written promise to appear in court at the appointed time. However, said statute applies only where a law enforcement officer has "halted" such person for the violation of a state traffic law, and it has no application to violations of city traffic ordinances. Although a similar procedure is provided by the Kansas Code of Procedure for Municipal Courts, it has application only in those instances where a law enforcement officer has arrested a person for a violation of a city traffic ordinance.

A city may by charter ordinance exempt itself from these provisions of the Municipal Code and provide a procedure different from the statutorily-prescribed procedure for obtaining appearance bonds from persons accused of violating traffic ordinances. However, the scope of the new procedure contemplated by any such charter ordinance is limited to the extent that the charter ordinance cannot confer upon the city the power to issue, suspend, revoke, restrict or otherwise affect the use of driver's licenses, since such powers vest exclusively in the state and are not within cities' home rule powers to determine their local affairs and government. A city is limited to this same extent with respect to legislative action by the city that would permit a defendant in municipal court to post a driver's license as bond pending the payment of a fine. Cited herein: K.S.A. 8-234a, 8-235, 8-254 (as amended by L. 1983, ch. 34, § 2), 8-271, 8-1212, 8-1218, 8-1219, 8-1222, 8-1567 (as amended by L. 1983, ch. 37, § 2), 8-2101, 8-2107 (as amended by L. 1983, ch. 42, § 1), 8-2110, 8-2111, 12-4211, 12-4212, 12-4213, 12-4301, Kan. Const., Art. 12, § 5. BJS

### OPINION NO. 83-138

**Cities and Municipalities—Municipal Courts; Appearance and Conditions of Release—Appearance Bonds.**

**Kansas Constitution—Corporations—Municipal Home Rule Powers; Appearance Bonds.** David K. Martin, City Attorney for the City of Mission, Kansas, Olathe, September 12, 1983.

Where the holder of a valid Kansas driver's license

is arrested for the violation of a city ordinance relating to the operation of a motor vehicle, the provisions of K.S.A. 12-4301(d) permit such person to deposit said license with the arresting officer or clerk of the municipal court to secure such person's appearance, irrespective of whether such person is a resident of the city in which he or she was arrested. Cited herein: K.S.A. 8-2107 (as amended by L. 1983, ch. 42, § 1), 12-4113, 12-4301. BJS

### OPINION NO. 83-139

**Criminal Procedure—Costs in Criminal Cases—Liability for Costs; Witness Fees.**

**Fees and Salaries—Fees, All Counties; Salaries, Certain Counties—Liability for Costs; Witness Fees.** C. L. Laman, Cloud County Attorney, Concordia, September 13, 1983.

K.S.A. 1982 Supp. 22-3801 provides that court costs, which may include witness fees, taxed against a convicted defendant in a criminal action are an enforceable judgment against the defendant. When a defendant is unable to pay witness fees and mileage, the county is obligated by K.S.A. 1982 Supp. 28-125(d) and 28-150 to pay the witness fees. After paying witnesses their statutory fees and mileage, the county may execute upon the judgment against the defendant. Cited herein: K.S.A. 1982 Supp. 22-3801, K.S.A. 22-3803, K.S.A. 1982 Supp. 28-125, K.S.A. 28-150, K.S.A. 1982 Supp. 28-172a. MFC

### OPINION NO. 83-140

**Townships and Township Officers—Township Treasurer—Publication of Township Statements; Listing of Individual Expenditures, Receipts and Liabilities.** Representative Ginger Barr, Fifty-First District, Auburn, September 13, 1983.

K.S.A. 80-410 provides that the treasurer of each Kansas township shall have the duty of publishing or causing to be published a financial statement of the township following the meeting of the township board in December of each year. As the statute requires the issuance of a "full and detailed statement, duly verified, of the receipts, expenditures and liabilities" of the township, a treasurer may not substitute a summary which shows totals for categories of expenditures rather than individual items. Cited herein: K.S.A. 19-228, 80-140, L. 1980, ch. 118, § 1. JSS

### OPINION NO. 83-141

**Trust Companies and Business Trusts—Change of Trust Company's Location—Approval of Bank Board; When Not Required.** Eugene C. Hegarty, State Bank Commissioner, Topeka, September 13, 1983.

Attorney General Opinion No. 81-189 concluded that those provisions of K.S.A. 17-2015 which require the state banking board's approval of a trust company's change in location are applicable to a trust company wherein moneys are currently on deposit, even if no new accounts are being opened. Accordingly, if a trust company has closed out all accounts, so that no money

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is being held on deposit, it is not subject to the provisions of K.S.A. 17-2015 which require state approval before a change in location can be made. Cited herein: K.S.A. 17-2015. JSS

ROBERT T. STEPHAN  
Attorney General

Doc. No. 001489

(Published in the KANSAS REGISTER, September 22, 1983.)

**NOTICE OF BOND SALE**  
**\$1,226,000**  
**INTERNAL IMPROVEMENT BONDS**  
**SERIES 170**  
**OF THE**  
**CITY OF MANHATTAN, KANSAS**  
(general obligation bonds payable from  
unlimited ad valorem taxes)

**Sealed Bids.** Sealed bids will be received by the undersigned, City Clerk of the City of Manhattan, Kansas (the "City"), on behalf of the Commission at the City Hall, 11th & Poyntz Ave., P.O. Box 748, Manhattan, Kansas, until 3:00 o'clock p.m., Central Daylight Savings Time, on

Tuesday, October 4, 1983

for the purchase of \$1,226,000 principal amount of Internal Improvement Bonds, Series 170 (the "Bonds"), of the City hereinafter described. All bids will be publicly opened and read at said time and place and will be acted upon by the governing body later that evening during the regular meeting.

**Bond Details.** The Bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof, except one bond will be in the denomination of \$1,000, dated November 1, 1983, and becoming due serially on November 1, in the years as follows:

YEAR	PRINCIPAL AMOUNT	YEAR	PRINCIPAL AMOUNT
1984	\$66,000	1994	\$60,000
1985	65,000	1995	60,000
1986	65,000	1996	60,000
1987	65,000	1997	60,000
1988	65,000	1998	60,000
1989	60,000	1999	60,000
1990	60,000	2000	60,000
1991	60,000	2001	60,000
1992	60,000	2002	60,000
1993	60,000	2003	60,000

The Bonds will bear interest at rates to be determined when the Bonds are sold as hereinafter provided, which interest will be payable semiannually on May 1 and November 1 in each year, beginning on May 1, 1984.

**Place of Payment and Bond Registration.** The principal of and interest on the Bonds will be payable in lawful money of the United States of America by check or draft of the treasurer of the State of Kansas, Topeka, Kansas (the "Paying Agent" and "Bond Registrar"), to the registered owners thereof whose names are on the registration books of the Bond Registrar as of the 15th day of the month preceding each interest

payment date. The Bonds will be registered pursuant to a plan of registration approved by the City and the Attorney General of the State of Kansas, and, at the option of the successful purchaser, the Bonds may be registered as fully registered certificated bonds and/or uncertificated bonds.

The City will pay for the fees of the Bond Registrar for registration and transfer of the Bonds and will also pay for printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Bond Registrar, will be the responsibility of the bondholders.

The type and denominations of the Bonds and the names, addresses and social security or taxpayer identification numbers of the registered owners shall be submitted in writing by the successful bidder to the City by October 20, 1983.

**Conditions of Bids.** Proposals will be received on the Bonds bearing such rate or rates of interest as may be specified by the bidders, subject to the following conditions: The same rate shall apply to all Bonds of the same maturity. Each interest rate specified shall be a multiple of 1/8 or 1/20 of 1%. No interest rate shall exceed a rate equal to the "20 Bond Index" of tax exempt municipal bonds published by *The Weekly Bond Buyer* in New York, New York, on the Monday next preceding the day on which the Bonds are sold, plus 2%. The difference between the highest rate specified and the lowest rate specified shall not exceed 2½%. No bid of less than the par value of the Bonds and accrued interest thereon to the date of delivery will be considered. Each bid shall specify the total interest cost to the City during the life of the Bond issue on the basis of such bid, the premium, if any, offered by the bidder, and the net interest cost to the City on the basis of such bid. Each bid shall also specify the average annual net interest rate to the City on the basis of such bid.

**Basis of Award.** The award of the Bonds will be made on the basis of the lowest net interest cost to the City, which will be determined by subtracting the amount of the premium bid, if any, from the total interest cost to the City. If there is any discrepancy between the net interest cost and the average annual net interest rate specified, the specified net interest cost shall govern and the interest rates specified in the bid shall be adjusted accordingly. If two or more proper bids providing for identical amounts for the lowest net interest cost are received, the governing body shall determine which bid, if any, shall be accepted, and its determination shall be final.

**Authority, Purpose and Security.** The Bonds are being issued pursuant to K.S.A. 12-6a01 to 12-6a18, inclusive, for the purpose of paying the cost of certain sanitary sewer, storm drainage, water and street improvements. The Bonds and the interest thereon will constitute general obligations of the City, payable in part from special assessments levied upon the property benefited by the construction of said improvements and, if not so paid, from ad valorem taxes which

(continued)

may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City, with the balance payable from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City.

**Legal Opinion.** The Bonds will be sold subject to the legal opinion of GAAR & BELL, Overland Park, Kansas, Bond Counsel, whose approving legal opinion as to the validity of the Bonds will be furnished and paid for by the City, printed on the Bonds and delivered to the successful bidder as and when the Bonds are delivered. Said opinion will also state that in the opinion of Bond Counsel, under existing laws and regulations, the interest on the Bonds is exempt from federal income taxation and from Kansas intangible personal property taxes.

**Delivery and Payment.** The City will pay for printing and registering the Bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder within 45 days after the date of sale at such bank or trust company in the contiguous United States of America as may be specified by the successful bidder. Said bidder will also be furnished with a certified transcript of the proceedings evidencing the authorization and issuance of the Bonds and the usual closing proofs which will include a certificate that there is no litigation pending or threatened at the time of delivery of the Bonds affecting their validity. Payment for the Bonds shall be made in federal reserve funds, immediately subject to use by the City.

**Good Faith Deposit.** Each bid shall be accompanied by a cashier's or certified check drawn on a bank located in the United States of America in the amount of \$24,520 payable to the order of the City to secure the City from any loss resulting from the failure of the bidder to comply with the terms of its bid. No interest will be paid upon the deposit made by the successful bidder. Said check shall be returned to the bidder if its bid is not accepted. If a bid is accepted, said check will be held by the City until the bidder shall have complied with all of the terms and conditions of this Notice, at which time the check will be paid to or upon the order of the bidder. If a bid is accepted but the City shall fail to deliver the Bonds to the bidder in accordance with the terms and conditions of this Notice, said check or the proceeds thereof will be returned to the bidder. If a bid is accepted but the bidder shall default in the performance of any of the terms and conditions of this Notice, the proceeds of such check will be retained by the City as and for liquidated damages.

**CUSIP Numbers.** It is anticipated that CUSIP identification numbers will be printed on certificated Bonds or assigned to uncertificated Bonds, but neither the failure to print such number on or assign such number to any Bond nor any error with respect thereto shall constitute cause for failure or refusal by the purchaser thereof to accept delivery of and pay for the Bonds in accordance with the terms of the purchase

contract. All expenses in relation to the assignment and printing of CUSIP numbers on the Bonds will be paid by the City.

**Bid Forms.** All bids must be made on forms which may be procured from the City Clerk. No additions or alterations in such forms shall be made and any erasures may cause rejection of any bid. The City reserves the right to waive irregularities and to reject any or all bids.

**Submission of Bids.** Bids must be submitted in sealed envelopes addressed to the undersigned City Clerk, and marked "Proposal for the Purchase of Internal Improvement Bonds." Bids may be submitted by mail or delivered in person to the undersigned at the City Hall and must be received by the undersigned prior to 3:00 o'clock p.m., Central Daylight Savings Time, on October 4, 1983.

**Official Statement.** The City has prepared a Preliminary Official Statement dated September 9, 1983, copies of which may be obtained from the City Clerk.

**Assessed Valuation and Indebtedness.** The total assessed valuation of the taxable tangible property within the City for the year 1982 is \$84,723,000. The total general obligation indebtedness of the City as of the date of the Bonds, including the Bonds being sold, is \$14,760,000. Temporary notes in the principal amount of \$1,374,000 will be retired out of proceeds of the Bonds and other available funds.

**Additional Information.** Additional information regarding the Bonds may be obtained from the City Clerk.

DATED this 9th day of September, 1983.

CITY OF MANHATTAN, KANSAS  
By GREGG W. GIBSON, City Clerk  
City Hall  
11th & Poyntz Avenue  
P.O. Box 748  
Manhattan, Kansas 66502  
(913/537-0056)

Doc. No. 001481



(Published in the KANSAS REGISTER, September 22, 1983.)

**NOTICE OF BOND SALE**  
**\$137,606.55**  
**GENERAL OBLIGATION INTERNAL**  
**IMPROVEMENT BONDS**  
**OF THE**  
**CITY OF ARKANSAS CITY, KANSAS**

The CITY OF ARKANSAS CITY, KANSAS will receive sealed bids at the OFFICE OF THE CITY CLERK, CITY HALL, FIRST STREET AND CENTRAL AVENUE, ARKANSAS CITY, KANSAS, until 5:00 o'clock P.M., C.D.T., on

**TUESDAY, OCTOBER 4, 1983**

for \$137,606.55 par value GENERAL OBLIGATION INTERNAL IMPROVEMENT BONDS of the City, at which time and place such bids will be publicly opened. No oral or auction bids will be considered.

The Series A, 1983 Bonds will be dated as of October 1, 1983, and shall mature on October 1 in each of the years and in the amounts set forth below. Such Bonds shall consist of fully registered certificated Bonds, each in the denomination of \$5,000.00 or integral multiples thereof not exceeding the principal amount of Bonds maturing in each year, except one Bond in denomination of \$7,606.55. Interest will be payable semiannually, commencing April 1, 1984, and each April 1 and October 1 thereafter. The principal of, and premium, if any, on the bonds shall be payable in lawful money of the United States of America, at the principal office of the Treasurer of the State of Kansas (the Paying Agent and Bond Registrar) to the registered owners thereof upon presentation of the Bonds for payment and cancellation. Interest on the Bonds shall be payable in lawful money of the United States of America, by check or draft of the Paying Agent to the registered owners appearing on the books maintained by the Bond Registrar as of the preceding March 15 and September 15 (the Record Dates). The fees of the Bond Registrar for registration and transfer of the Bonds shall be paid by the City. The Bonds will mature serially in accordance with the following schedule:

PRINCIPAL AMOUNT	MATURITY DATE
\$12,606.55	October 1, 1984
15,000.00	October 1, 1985
15,000.00	October 1, 1986
15,000.00	October 1, 1987
15,000.00	October 1, 1988
15,000.00	October 1, 1989
15,000.00	October 1, 1990
15,000.00	October 1, 1991
10,000.00	October 1, 1992
10,000.00	October 1, 1993

**REDEMPTION**

Bonds maturing October 1, 1991, and thereafter, are subject to call for redemption and payment prior to their respective maturities at the option of the City on and/or after October 1, 1990, in whole at any time or in part in inverse numerical order, and by lot within maturities, on any interest payment date, at the re-

demption price set forth below, plus accrued interest to the redemption date:

Redemption Period (Dates Inclusive)	Redemption Price
10-1-90 through 4-1-91	103%
10-1-91 through 4-1-92	102%
10-1-92 through 4-1-93	101%

Notice of any call for redemption will be mailed to the registered owners of such bonds to be redeemed at the address shown on the registration books maintained by the Bond Registrar not less than 30 days prior to the date fixed for such redemption and payment. Interest on the Bonds so called for redemption and payment will cease to accrue after the redemption date, provided notice has been given and funds are then available to pay the full redemption price thereof.

**INTEREST RATE**

Proposals will be received on the Bonds bearing such rate or rates of interest, not exceeding Six (6) different interest rates, as may be specified by the bidder. The repetition of a rate will not constitute one of said maximum number of rates. The same rate shall apply to all Bonds of the same maturity. Each interest rate specified shall be in an even multiple of one-eighth (1/8th) or one-twentieth (1/20th) of one percent (1%). The difference between the highest and lowest coupon rates specified in any bid shall not exceed three percent (3%). No interest rate shall exceed the maximum interest rate allowed by Kansas law; said rate being the "20 Bond Index" of tax exempt municipal bonds published by the *Weekly Bond Buyer* in New York, New York on the Monday next preceding the day on which the Bonds are sold (October 3, 1983), plus 2%, and no bid of less than par and accrued interest will be considered. Bids for less than the entire issue of Bonds will not be considered.

**BID FORM AND GOOD FAITH DEPOSIT**

Bids shall be submitted on the OFFICIAL BID FORM furnished by the City, and shall be addressed to the City at CITY HALL, FIRST STREET AND CENTRAL AVENUE, ARKANSAS CITY, KANSAS 67005, ATTENTION: RODNEY FRANZ, CITY CLERK, and shall be plainly marked BOND BID. All bids must state the total interest cost of the bid, the premium, if any, the net interest cost of the bid, and the average annual interest rate, all certified by the bidder to be correct; and the City will be entitled to rely on the certificate of correctness of the bidder. Each bid must be accompanied by a certified or cashier's check equal to two percent (2%) of the total amount of the bid, and shall be payable to TREASURER, CITY OF ARKANSAS CITY, KANSAS. In the event a bidder whose bid is accepted shall fail to carry out his Contract of Purchase, said deposit shall be retained by the City as liquidated damages. The checks of unsuccessful bidders will be returned promptly.

**AWARD OF BIDS**

The sealed bids for the Bonds shall be opened

(continued)

publicly and only at the time and place specified in this Notice; and the Bonds will be sold to the best bidder. The City reserves the right to reject any and/or all of the bids, and to waive any irregularities. Unless all bids are rejected, the Bonds will be awarded to the bidder whose proposal results in the lowest net interest cost to the City; and the net interest cost will be determined by deducting the amount of any premium paid from the aggregate amount of interest upon all of the Bonds from their date until their respective maturities.

#### DELIVERY OF THE BONDS

The Bonds, duly printed, executed and registered, will be furnished and paid for by the City; and the Bonds will be sold subject to the unqualified approving opinion of GAAR & BELL, Bond Counsel, of Wichita, Kansas. THE NUMBER, DENOMINATION OF BONDS, AND NAMES OF THE INITIAL REGISTERED OWNERS TO BE INITIALLY PRINTED ON THE BONDS SHALL BE SUBMITTED IN WRITING BY THE SUCCESSFUL BIDDER TO THE BOND REGISTRAR NOT LATER THAN OCTOBER 21, 1983. The purchaser will be furnished with a complete Transcript of Proceedings evidencing the authorization and issuance of the Bonds; and the usual closing proofs, which will include a Certificate that there is no litigation pending or threatened at the time of delivery of the Bonds affecting their validity. Payment for the Bonds shall be made in immediately available funds. Delivery of the Bonds will be made to the successful bidder on or before OCTOBER 31, 1983, at any bank in the STATE OF KANSAS or KANSAS CITY, MISSOURI, at the expense of the City. Delivery elsewhere will be made at the expense of the purchaser.

#### LEGAL OPINION

Bids shall be conditioned upon the unqualified approving opinion of GAAR & BELL, Bond Counsel, Wichita, Kansas, a copy of which opinion will be printed on the reverse side of each bond and a manually signed original will be furnished without expense to the purchaser of the bonds at the delivery thereof. The cost of this legal opinion and the expense of printing the bonds and legal opinion will be paid by the City. Said legal opinion will state in part substantially that the Bonds will constitute general obligations of the City, payable as to both principal and interest in part from the collection of special assessments which have been levied on benefited property; but any portion of said specially assessed part not so paid, and the remainder of said principal and interest will be payable from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City; and that, under existing law, the interest on said Bonds is exempt from present Federal income taxation and the Bonds are exempt from intangible personal property taxes levied by Kansas cities, counties and townships.

#### PURPOSE OF ISSUE

The Bonds are being issued for the purpose of

redeeming and canceling: Temporary Note Series No. 139 in the amount of \$94,500.00 of the City previously issued to pay the costs of constructing and installing a sanitary sewer to serve properties located in the Northwest Portion of the City; Temporary Note Series No. 139-A in the amount of \$20,000.00 of the City previously issued to pay the costs of additional expenses of condemnation expenses incurred in acquiring private property for public sanitary sewer easement to serve properties located in the Northwest Portion of the City; Temporary Note Series No. 146 in the amount of \$54,697.50 of the City previously issued to pay the costs of constructing and installing pedestrian sidewalks and curbing and guttering for portions of Fifth Avenue and Second Street adjoining the Auditorium-Gymnasium; and Temporary Note Series No. 147 in the amount of \$6,252.00 of the City previously issued to pay the costs of constructing and installing culverts and other necessary appurtenances to improve storm drainage on Central Avenue between "F" Street and "G" Street.

#### CUSIP IDENTIFICATION NUMBERS

CUSIP identification numbers will be printed on said bonds. All expenses in relation to printing of CUSIP numbers on said bonds and the expenses of CUSIP Service Bureau for the assignment of said numbers shall be the responsibility of and shall be paid for by the City.

#### ASSESSED VALUATION

Assessed valuation figures for the City of Arkansas City, Kansas, for the year 1982, are as follows:

Equalized Assessed Valuation of Taxable Tangible Property .....	\$23,589,748.00
Tangible Valuation of Motor Vehicles .....	\$ 4,500,570.00
Tangible Valuation of Motor Vehicle Dealers' Inventory .....	\$ 178,885.00

Equalized Assessed Tangible Valuation for Computation of Bonded Debt Limitations ..	\$28,269,203.00
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#### BONDED INDEBTEDNESS

The total bonded indebtedness of the City of Arkansas City, Kansas, at the date hereof, including this \$137,606.55 proposed issue of Bonds, is in the amount of \$5,025,273.57. The City will retire \$175,449.50 of outstanding Temporary Notes from the proceeds of the Bonds, special assessments which have been collected in cash, and other available funds.

#### OFFICIAL STATEMENT

Additional copies of this Notice of Bond Sale, or copies of the City's Official Statement relating to the Bonds, or further information may be received from the office of the City Clerk, City Hall, First Street and Central Avenue, Arkansas City, Kansas 67005.

DATED September 6, 1983.

CITY OF ARKANSAS CITY, KANSAS  
By RODNEY FRANZ, City Clerk

Doc. No. 001480

(Published in the KANSAS REGISTER, September 22, 1983.)

**NOTICE OF REDEMPTION  
OF BONDS  
CITY OF PRATT, KANSAS**

Notice is hereby given in the name of the City of Pratt, Kansas, that the outstanding City of Pratt, Kansas Industrial Revenue Bonds, Series 1974-1, numbered 105-120, inclusive, will be redeemed and paid prior to maturity on November 1, 1983. Said redemption shall be had pursuant to the provision of Section 3 of Ordinance No. 926 of the City of Pratt, Kansas, adopted by the governing body of said City on November 18, 1974. Said bonds shall be redeemed at the principal amount thereof, plus accrued interest, to November 1, 1983, plus a premium of \$30.00 per \$1,000.00 of principal amount of bonds so called and shall be payable at the Office of the Treasurer of the State of Kansas, 535 Kansas Avenue, First Floor, Topeka, Kansas 66603.

Dated: September 14, 1983.

**CITY OF PRATT, KANSAS**  
By **CURT WOOD**  
City Clerk/Finance Director

**THE PEOPLES BANK FISCAL AGENT**  
By **INGA SLOAN**, Trust Officer

Doc. No. 001488

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**Secretary of State**  
**State Capitol**  
**Topeka, Kansas 66612**

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